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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.5920 of 2024
and O.A.Nos.877 & 878 of 2024
in C.S.No.718 of 2006

N.R.Vatsala (deceased)
D/o Rathina Mudaliar Neyyadupakkam Village, Uthiramerur Tk.,
Kancheepuram Dist and 3 Others ... Applicants

-VS-

R.SATHYAVAGEESWARAN (Deceased) 1.S.Uma and 4 others
W/o.Late R.Sathyavageeswaran and 4 Others ... Respondents

For Applicants : Mr.R.Navaneethakrishnan, Sr. Advocate
for Mr.S.Sridhar
For Respondents : Mr.Prashanth Nadaraj for R1 to R3
Mr.R.Natarajan for R4

ORDER

The suit was filed by the late R.Sathyavageeswaran against N.R.Vatsala and two others seeking specific performance of memorandum of understanding between the parties. Upon the death of R.Sathyavageeswaran, his legal representatives were impleaded as



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plaintiffs. Similarly, after the death of N.R.Vatsala, her legal representatives were impleaded as parties. The plaintiffs filed O.A.No.733 of 2006 seeking an interim injunction restraining the respondents therein, including V.Thirunavukkarasu, from alienating or encumbering the property described in Schedule-A to the judge's summons of the said application. By order dated 28.09.2006 an order of interim injunction as prayed for was issued. The said order expressly applies to agents of the respondents. The order of injunction was made absolute thereafter.

2. In these circumstances, pursuant to power of attorney dated 12.09.2012 bearing Document No.771 of 2012, which was executed by the third defendant, V.Thirunavukkarasu, in favour of V.Vishnupathy, sale deed dated 26.09.2012 was executed by the third defendant, acting through the agent, V.Vishnupathy, in favour of V.Vijayalakshmi, the wife of V.Vishnupathy. The present applications have been lodged in the above facts and circumstances. Meanwhile, pursuant to an application by V.Vijayalakshmi, she was impleaded as the sixth defendant by order dated 06.02.2023.



WEB COPY 3. In O.A.No.877 of 2024 the applicants / defendants 2 to 5 seek to restrain the sixth defendant from undertaking construction in the plaint A-Schedule property pending disposal of the suit.

4. In O.A.No.878 of 2024, the above mentioned applicants seek an interim injunction restraining the sixth defendant from trespassing upon or putting up construction of residential plots or otherwise encumbering or alienating the plaint Schedule-A property.

5. The third application, A.No.5920 of 2024, has also been filed by the same applicants to punish the fifth respondent in relation to allegedly preventing the third defendant from entering his land and for helping the sixth defendant.

6. Learned senior counsel appearing for the applicants submits that the applicants are ready and willing to proceed with the trial on an expedited basis. He further submits that construction activity by the sixth defendant



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should be restrained since the sixth defendant is the beneficiary of the sale deed executed by her husband in breach of earlier orders of this Court.

7. Learned counsel for the sixth defendant refutes these contentions.

He submits that the third defendant has abused the process of law. He refers to the Agreement of Development dated 20.12.2013, which was entered into by the third defendant and others and a developer called Sri Mangalam Builders and Real Estate Limited. He also refers to the earlier application filed in A.No.7799 of 2019 for similar relief, and to the dismissal thereof for non-prosecution. Learned counsel submits that the dismissal of the said application was not disclosed by the applicants herein, and that these applications are liable to be dismissed for suppression of material facts.

8. The undisputed position is that an order of interim injunction restraining N.R.Vatsala, T.Prabakar and V.Thirunavukkarasu from alienating or encumbering the suit schedule property was issued on 28.09.2006. Such order was made absolute thereafter and remains in force as on date. In the teeth of such orders, it appears that the third defendant,



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V.Thirunavukkarasu, executed a power of attorney dated 12.09.2012 in favour of V.Vishnupathy. By relying on such power of attorney, the said V.Vishnupathy executed a sale deed dated 26.09.2012 in favour of his wife, V.Vijayalakshmi, who is the sixth defendant herein. In effect, both the execution of the power of attorney and the sale deed thereafter are in breach of the order dated 28.09.2006 which was extended and made absolute thereafter.

9. Although an agreement for sale or a memorandum of understanding in relation to an immovable property does not create interest in such property and, consequently, any sale during the pendency of such suit would only ordinarily be subject to the doctrine of *lis pendens*, the situation herein is fundamentally different. As stated earlier, these transactions were entered into in breach of an order of interim injunction of this Court. In these circumstances, any further development or construction activity is liable to be restrained. It should be noticed, in this regard, that the applicants were also complicit in the contravention of the orders of this Court.



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10. The applicants also seek to prevent alleged trespass on the property by the sixth defendant and even seek action against the Police Officer in such regard. In the facts and circumstances outlined above, the applicants are not entitled to such relief. The assertion of the sixth defendant that he is in possession of the property appears to be *prima facie* true on the basis of materials on record.

11. For reasons set out above, these applications are disposed of on the following terms:

(i) The sixth defendant is restrained from undertaking further construction on the suit schedule property and from alienating or encumbering such property in any manner until disposal of the suit.

(ii) The *status-quo* as on date with regard to possession shall be maintained and the applicants / defendants 2 to 5 shall not interfere with the possession of the sixth defendant until disposal of the suit.

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